

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4852

IN THE MATTER OF:

Served May 21, 1996

Application of O. OLUOKUN, INC.,)
Trading as MONTGOMERY COUNTY LIMO)
and MONTGOMERY COUNTY SHUTTLE, for)
a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-96-15

By application filed March 27, 1996, O. Oluokun, Inc., a Maryland corporation trading as Montgomery County Limo and Montgomery County Shuttle, seeks a certificate of authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Applicant was conditionally granted operating authority in 1992, but because applicant failed to timely satisfy the conditions, the application was deemed denied.¹

Notice of this application was served on April 1, 1996, in Order No. 4803, and applicant was directed to publish further notice in a newspaper and file an affidavit of publication, an amended equipment list and an amended proposed tariff. Applicant complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, applicant's corporate status, facilities, proposed tariff, finances, and regulatory compliance record.

Applicant proposes commencing operations with seven sedans and two limousines. Applicant's proposed tariff contains airport transfer rates, hourly charter rates, per capita shuttle rates and per capita mileage rates.

Applicant filed a statement of net worth as of December 31, 1995, showing current assets of \$14,000; net fixed assets of \$92,570; current liabilities of \$18,010; long-term liabilities of \$79,990; and equity of \$8,570. Applicant's projected operating statement for the first twelve months of WMATC operations shows operating income of \$131,878; expenses of \$138,786; and a net loss of \$6,908.

¹ See In re O. Oluokun, Inc., No. AP-92-11, Order No. 4012 (Oct. 28, 1992) (citing Commission Regulation No. 66).

Applicant certifies it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire. Applicant further certifies that neither applicant nor any person controlling, controlled by, or under common control with applicant has any control relationship with a carrier other than applicant.

DISCUSSION AND CONCLUSION

This case is governed by the Compact, Title II, Article XI, Section 7(a), which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant . . . if it finds that --

- (i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and
- (ii) that the transportation is consistent with the public interest.

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.²

To establish financial fitness, an applicant must show the present ability to sustain operations during the first year under WMATC authority.³ Although applicant is projecting a net loss during the first year of WMATC operations, applicant's current assets and net projected cash flow are sufficient to cover both projected expenses and current liabilities. Further, applicant is an established carrier with MDPSC authority. We have found other applicants financially fit under similar circumstances.⁴

An evaluation of compliance fitness is prospective in nature.⁵ When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and

² In re Capitol Bus Rental, Inc., t/a Capitol Tours, No. AP-95-50, Order No. 4719 (Dec. 14, 1995).

³ In re WDC Sightseeing Tours, Inc., AP-92-33, Order No. 4036 (Jan 12, 1993).

⁴ See In re Community Multi-Servs., Inc., No. AP-95-56, Order No. 4753 (Jan. 30, 1996) (sufficient cash flow); In re A.C. Limo. Serv., Inc., No. AP-95-23, Order No. 4606 (May 31, 1995) (MDPSC authority); In re Chesapeake Trails Bus Co., No. AP-95-13, Order No. 4571 (Apr. 12, 1995) (MDPSC authority).

⁵ Order No. 4719.

persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁶

The Commission assessed a civil forfeiture against applicant in 1993 for operating in knowing and willful violation of the Compact on seven separate occasions.⁷ Although relatively few in number, these violations are serious, and we find no mitigating circumstances. On the other hand, applicant has corrected its past mistakes by paying the civil forfeiture, and there is no evidence in the record of any ongoing operations in the Metropolitan District that are not permissible under applicant's MDPSC authority. The record, therefore, supports a finding of prospective compliance fitness.

There is no issue with respect to applicant's operational fitness.

Based on the evidence in this record, the Commission finds applicant to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. The Commission further finds that the proposed transportation is consistent with the public interest.

During the course of this proceeding, applicant filed documents indicating applicant makes arrangements for transportation by bus. While applicant may broker such services, applicant may not provide those services itself. Bus operations between points in the Metropolitan District may only be conducted by a WMATC carrier with authority unrestricted as to vehicle size.

THEREFORE, IT IS ORDERED:

1. That O. Oluokun, Inc., trading as Montgomery County Limo and Montgomery County Shuttle, 3537 Spencerville Road, #11, Burtonsville, MD 20866, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

2. That applicant is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in

⁶ Id.

⁷ In re O. Oluokun, Inc., t/a Montgomery County Limo, No. MP-93-43, Order No. 4225 (Dec. 16, 1993).

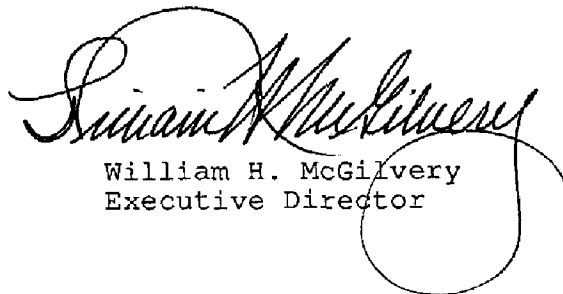
revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 208 is hereby assigned.

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 208 shall be issued to applicant.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

5. That unless applicant complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER AND LIGON:



William H. McGilvery
Executive Director